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Fifth Committee**Summary record of the 22nd meeting**

Held at Headquarters, New York, on Monday, 13 December 2010, at 10 a.m.

Chair: Mr. Rosenthal..... (Guatemala)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Ms. McLurg

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The meeting was called to order at 10.10 a.m.

Agenda item 129: Programme budget for the biennium 2010-2011 (continued)

Request for a subvention to the Special Court for Sierra Leone (A/65/570 and A/65/603)

1. **Mr. Yamazaki** (Controller), introducing the report of the Secretary-General on the request for a subvention to the Special Court for Sierra Leone (A/65/570), said that the General Assembly had approved a subvention of \$31.2 million for the Special Court in 2004, of which an unspent balance of \$3,286,505.63 had been surrendered to Member States at the end of 2006. At the time the Secretary-General's current report was being finalized, the Special Court had indicated that available voluntary contributions would sustain its operations only until 31 October 2010 and that it faced an anticipated funding shortfall of approximately \$17.9 million, consisting of about \$4.5 million for the period from 1 November to 31 December 2010, \$11 million for the period from 1 January to 31 December 2011 and \$2.4 million for the period from 1 January to 29 February 2012, when it was expected to have completed its mandate. Consequently, the Secretary-General was requesting that a subvention of \$17.9 million should be made available to supplement the Special Court's voluntary resources.

2. Following the issuance of the Secretary-General's report, the Special Court had received additional pledges from various donors, which the Advisory Committee had taken into account in formulating its recommendation.

3. **Ms. McLurg** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of the Advisory Committee (A/65/603), said that, since the Special Court had entered its completion phase and was expected to be the first of the international tribunals to finish its work, the Advisory Committee encouraged it to keep a documentary record of best practices and lessons learned, so that other international tribunals could benefit from its experiences.

4. Since the issuance of the Secretary-General's report, the Special Court had received additional pledges from three States and was now in a position to continue operating without a subvention until

31 December 2010. The revised request for a subvention amounted to \$12.24 million, of which \$9.88 million would be required for 2011 and \$2.36 million for January and February 2012. The method of disbursement was described in paragraph 14 of the Advisory Committee's report, which also stressed the need for ongoing oversight of the management of the Special Court's assets.

5. The Advisory Committee recommended that the General Assembly should approve, as an exceptional measure, funding of up to \$12.24 million to supplement the Special Court's voluntary resources for the periods from 1 January to 31 December 2011 and 1 January to 29 February 2012. Its recommendation was made on the understanding that any regular budget funds appropriated for the Special Court would be refunded to the United Nations at the time of the Court's liquidation; that no additional subventions for the Special Court were expected; and that the United Nations Secretariat, the Management Committee, the Registrar and other senior officials of the Special Court would intensify their efforts to fund the Court's activities through voluntary contributions.

6. **Mr. Al-Shahari** (Yemen), speaking on behalf of the Group of 77 and China, said that the Group valued the work of the Special Court and welcomed the significant progress it had made in discharging its mandate, as outlined in the Secretary-General's report. Recalling the provisions of article 6 of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone, he expressed the Group's full support for the Secretary-General's proposals, as updated by the Advisory Committee.

7. The Group would be requesting further information in informal consultations on the Special Court's recurrent lack of funds, which could jeopardize its mandate by hindering its ability to complete judicial proceedings. In view of the importance and specific nature of the final trial, more information would also be sought on the detailed implementation of the Special Court's completion strategy.

8. **Mr. Coffi** (Côte d'Ivoire), speaking on behalf of the Group of African States, said that the establishment of the Special Court had been a practical demonstration of the international community's support for strengthening the administration of justice in Sierra Leone, as a critical part of the country's national

reconciliation and the broader peace process. The Court's hybrid jurisdiction, involving the application of international humanitarian law and the relevant national laws of Sierra Leone, was a model of justice.

9. The Group trusted that the appeals phase of the final trial would be concluded by February 2012, thus ensuring that the Special Court would become the first of the international tribunals to complete its work and could serve as a reference for best practices and lessons learned for the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and other international tribunals. The Group also noted with satisfaction that the Residual Special Court for Sierra Leone established pursuant to the Agreement signed in July 2010 between the United Nations and the Government of Sierra Leone would, among other activities, maintain archives, provide witness protection if required, supervise the enforcement of sentences and review convictions if necessary.

10. With regard to fund-raising, the Group would be seeking additional information in informal consultations with a view to ensuring that the Special Court would not face any significant unexpected financial shortfall that could undermine its mandate. The Group gave sympathetic consideration to the Secretary-General's request for a subvention to supplement the financial resources of the Special Court, which would enable it to complete its mandate by February 2012, without prejudice to its independent character.

11. The Group paid tribute to those Member States that had made voluntary contributions to the Special Court and encouraged all Member States to contribute to the successful conclusion of its work, which was of paramount importance for the administration of justice, criminal accountability, international humanitarian law and peace.

First performance report on the programme budget for the biennium 2010-2011 (A/65/589 and A/65/604)

12. Mr. Yamazaki (Controller), introducing the first performance report on the programme budget for the biennium 2010-2011 (A/65/589), said that the report identified adjustments in the level of appropriations required at the end of the first year of the biennium owing to variations in rates of inflation and exchange

and in standards assumed in the calculation of the initial appropriations. It also took into account, inter alia, decisions taken by policymaking organs and unforeseen and extraordinary expenses.

13. Overall revised requirements under the expenditure sections amounted to \$5,148.6 million, a decrease of \$10.3 million vis-à-vis the appropriation levels approved by General Assembly resolutions 64/244 A, 64/260 and 64/288. The revised estimate under the income sections amounted to \$580.6 million, an increase of \$26.2 million relating primarily to income from staff assessment. Consequently, net requirements amounted to \$4,568.0 million, a decrease of \$36.5 million.

14. The report did not include revised estimates or statements of programme budget implications in respect of draft resolutions currently under consideration. Those amounts, which had totalled about \$35.7 million at the time the report had been finalized, were still subject to the decisions of the General Assembly and would affect the level of the revised appropriation.

15. Adjustments due to exchange rate fluctuations resulted in an increase of \$29.3 million, while inflation adjustments and adjustments to standard costs resulted in decreases of \$24.3 million and \$27.2 million, respectively. The report did not reflect any adjustments for vacancy rates; however, the situation would continue to be monitored and would be reported in the second performance report.

16. With regard to unforeseen and extraordinary expenses, commitments of \$6.9 million had been entered into, pursuant to General Assembly resolution 64/246. Concerning the decisions of policymaking organs, the Secretary-General sought approval to appropriate the amount of \$5 million already approved as a commitment authority for the United Nations Assistance Mission in Iraq (UNAMI) for the biennium 2010-2011, in connection with the construction of the United Nations integrated compound in Baghdad. The Committee might also wish to note that the Secretary-General, in his second progress report on the enterprise resource planning (ERP) project (A/65/389), had requested appropriation of an amount of \$12,416,300, initially approved by resolution 64/243 as a commitment authority. However, in the light of more up-to-date information on expenditure patterns, the Secretary-General had decided instead to continue to

monitor the progress of the project and to report the requirements arising from the use of the commitment authority in the context of the second performance report for the biennium 2010-2011.

17. Section G, subsection 1, of the report described the use of the Secretary-General's limited budgetary discretion, pursuant to General Assembly resolutions 60/283, 64/243 and 64/260, while subsection 2 reported on options for protecting the United Nations against fluctuations in exchange rates and inflation, as requested by the General Assembly in resolution 64/243. In that connection, input had been sought from 15 organizations of the Finance and Budget Network, eight of which had responded, as detailed in the report. The Secretariat was also continuing to review historical (2008-2009) transactional data and to work with external banking contacts to further address the General Assembly's request. The results of that review would be included in the second performance report for the biennium 2010-2011 or the proposed programme budget for the biennium 2012-2013.

18. Ms. McLurg (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of the Advisory Committee (A/65/604), said that the Advisory Committee recommended that the General Assembly should approve the revised estimates contained in the Secretary-General's report. However, in view of the delays in the construction of an integrated headquarters facility for UNAMI in Baghdad, it recommended that the amount of \$5 million already approved as a commitment authority should not be appropriated as yet but that any actual expenditures arising from the commitment authority should be reported in the context of the second performance report for the biennium 2010-2011.

19. With regard to the General Assembly's request, in its resolution 64/243, that the Secretary-General should report on options for protecting the United Nations against fluctuations in exchange rates and inflation, the Advisory Committee urged the Secretary-General to follow up with those organizations that had not yet responded to the questionnaire addressed to them, in order to be able to draw on the experience of as many entities as possible. It also noted the Secretary-General's intention to report more extensively on the matter in the context of either the second performance report for the biennium 2010-2011

or the proposed programme budget for the biennium 2012-2013.

20. Mr. Al-Shahari (Yemen), speaking on behalf of the Group of 77 and China, said that the Group noted that the decrease in requirements under the expenditure sections of the programme budget was mainly attributable to underexpenditure in various areas, changes in inflation assumptions and adjustments to standard costs. The Group also noted that provisions for special political missions, peace and security, and human rights were the only areas of the regular budget that had experienced actual budget growth, with special political missions accounting for the bulk of the growth. It regretted the lack of commensurate growth in funding for the implementation of the development agenda, to which it attached great importance.

21. The Group was also deeply concerned at the significantly higher vacancy rates under some sections of the programme budget, including section 5, Peacekeeping operations, section 11, United Nations support for the New Partnership for Africa's Development, section 17, Economic and social development in Africa, and section 30, Internal oversight. It would be seeking clarification of the reasons for continued high vacancy rates in those areas and the specific measures taken to address the problem. The Group also remained concerned that, although no adjustments for vacancy rates had been made at the Organization-wide level, the potential underexpenditure identified in some sections or programmes might be due to their above-average vacancy rates.

22. Lastly, the Group was concerned that the bulk of the requirements arising from the use of the Secretary-General's limited budgetary discretion had been met through the utilization of potential underexpenditure in development-related sections of the budget. The Group would be seeking clarification and justification of that underexpenditure and its use to finance other activities. It was also awaiting comprehensive information on the implementation of the limited discretion experiment, as requested in section III, paragraph 10, of General Assembly resolution 60/283.

23. Ms. Sánchez Lorenzo (Cuba) said it was regrettable that the documents before the Committee had been introduced so late in the main part of the current session, given their importance for the forthcoming budget process. Her delegation, noting the

net decrease of \$22.2 million in the level of appropriations required, owing to variations in budgetary assumptions, trusted that the second performance report would provide more information on the results of applying exchange rates based on two different methods, namely the averaging method and the latest rate, for forecasting and recosting the budgets of different duty stations. Her delegation was also concerned to note that, despite the reduction in realized vacancy rates, such rates were still higher than budgeted for the biennium and showed considerable divergence between budget sections. The Organization should continue to address that problem, as recommended in the Advisory Committee's report.

24. With regard to the significant increase in unforeseen and extraordinary expenses, it was to be hoped that all the commitments detailed in paragraph 10 of the Secretary-General's report had been duly certified by the Secretary-General as relating to the maintenance of peace and security; that was not always clear from the information provided.

25. The Secretary-General had not, to date, utilized \$11.1 million of the \$20 million available for use in accordance with the limited budgetary discretion accorded to him for the biennium 2010-2011; neither had he used the full authorized amount in either of the previous two bienniums. Her delegation had major reservations about the advisability of continuing with a pilot project that had no proven operational advantages. Furthermore, the Secretary-General's limited budgetary discretion should not undermine the authority of Member States in administrative and budgetary matters.

26. Lastly, her delegation wished to underline the importance of full compliance with the Financial Regulations and Rules of the United Nations and the Regulations and Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation, and to reaffirm the role of the Fifth Committee, the Advisory Committee and the Committee for Programme and Coordination in administrative and budgetary matters.

The meeting rose at 11 a.m.